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BY ECF

Hon. Ronald L. Ellis
United States District Court
500 Pearl Street, Suite 1970
New York, NY 10007-1312

Re: Pinks, et al. v. M&T Bank - 13 Civ. 1730 (LAK)(RLE)

Dear Magistrate Judge Ellis:

On behalf of plaintiff Jerry Pinks, we request that tomorrow's deadline for the joint status report on the case be continued for approximately two weeks, or until we have heard from Judge Kaplan in response to our letter of yesterday, September 25, 2017. (DI 191, attached.) Judge Kaplan's chambers have advised that he is out of town for MDL proceedings and is unlikely to respond to the letter before tomorrow.

Our letter of yesterday seeks clarification of the Court's Order denying class certification (DI 189), with respect to Mr. Pinks' Article III standing. The purpose is to aid the parties in formulating their positions with regard to the conference, which could also be entirely mooted by Judge Kaplan's response. In particular, as we note in our letter, if DI 189 reflects a determination by Judge Kaplan that Mr. Pinks lacks Article III standing, immediate non-prejudicial dismissal is mandated by Rule 12(h)(3), Fed. R. Civ. P.

We have reached out to defense counsel to ascertain their position on this request, but have not heard back from them as of the filing of this request (1:00 PM). We will report immediately once we hear from them on this issue.

Respectfully,

s//Daniel V. Gsovski
Daniel V. Gsovski

cc: All counsel (by ECF)